

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION**

Charles Blackwell,)	
)	Civil Action No. 7:16-cv-02787-JMC
Plaintiff,)	
)	
v.)	Amended Order
)	
Nick Federico,)	
Terry Fowler,)	
Brandon Gardner,)	
Michael Morin, Esq.,)	
Kim Leskanic,)	
Rodney Bright,)	
Billy Anthony,)	
)	
Defendants.)	
)	

Charles Blackwell (“Plaintiff”), proceeding pro se and in forma pauperis, filed this action pursuant to 42 U.S.C. §1983 alleging violation of his constitutional rights. (ECF No. 1.) Plaintiff is a South Carolina Department of Corrections inmate incarcerated at the Ridgeland Correctional Institution. (ECF No. 16 at 1.) Specifically, Plaintiff claims that he is entitled to relief for fourth amendment violations, jury bias, due process violations, false arrest, false imprisonment, malicious prosecution, a *Miranda* violation, and a false indictment. (Id. at 1-2) Plaintiff seeks \$600,000 from each Defendant, release from prison, a full pardon and a new trial. (Id.)

This matter is before the court pursuant to 28 U.S.C. § 1915(e)(2)(B), which requires the court to dismiss civil actions filed *in forma pauperis* if they are frivolous or malicious, if they fail to state a claim upon which relief can be granted, or if they seek monetary relief against a defendant who is immune. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, the matter was referred to United States Magistrate Judge Kevin F. McDonald for pre-trial handling.

On September 14, 2016, the Magistrate Judge issued a Report and Recommendation (“Report”) recommending that Plaintiff’s action be dismissed without prejudice. (ECF No. 16.) The Report sets forth the relevant facts and legal standards, which the court incorporates herein without a recitation.

The Magistrate Judge’s Report is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. See Matthews v. Weber, 423 U.S. 261, 270-71 (1976). This court is charged with making a de novo determination of those portions of the Report to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge’s recommendation, or recommit the matter with instructions. See 28 U.S.C. § 636 (b)(1). Objections to a Report and Recommendation must specifically identify portions of the Report and the basis for those objections. Fed. R. Civ. P. 72(b). If the petitioner fails to properly object because the objections lack the requisite specificity, then de novo review by the court is not required.

Plaintiff filed timely objections to the Magistrate Judge’s Report and Recommendation on September, 23 2016. (ECF No. 18.) Specifically, Plaintiff reiterates his claim that he is not responsible for drugs he was charged with trafficking because they were not in his possession and because he was a trespasser in the house where the drugs were found. (Id. at 1.) Additionally, he restates his claim that he did not receive an impartial jury at trial. (Id. at 2.) Lastly, Plaintiff generally claims that his Eighth amendment rights were violated based on the other alleged violations. (Id.) The court has reviewed Plaintiff’s objections, and finds that Plaintiff fails to assert a specific error in the Report. Instead, Plaintiff reasserts facts and

allegations from his Complaint. Because Petitioner failed to properly object to the report with specificity, the court does not need to conduct a de novo review and instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond, 416 F.3d at 315. The court does not find clear error.

CONCLUSION

Based on the aforementioned reasons and a thorough review of the Report of the Magistrate Judge and the record in this case, the court **ACCEPTS** the Report of the Magistrate Judge (ECF No. 16). It is therefore ordered that Plaintiff’s Complaint (ECF No. 1) is **DISMISSED** without prejudice.

IT IS SO ORDERED.



United States District Judge

October 28, 2016
Columbia, South Carolina